IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE J.CHELAMESWAR**

**and**
**THE HON'BLE MR JUSTICE GHULAM MOHAMMED**

**WRIT APPEAL NO : 735 of 2005**

Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/07/2004 in WP NO : 4087 OF 2003 on the file of the High Court.

Between:

N. Venugopal Rao S/o.Late N.L.Narasimha Rao
H.No.6-1-143, Padmarao Nagar Secunderabad.

**..... APPELLANT**

AND

1 The Zonal Manager (Disciplinary Authority) LIC of India,
Central Office South Central Zone Office
Saifabad, Hyderabad.
2 The Managing Director LIC of India, Central Office
P.B.No.199953, Jeevan Bima Marg, Mumbai.

**.....RESPONDENTS**

**Counsel for the Appellant: MR.CAPT.K.M.SAXENA**

**Counsel for the Respondents: Mr.D.V.Sitaramamurthy**

**The Court made the following:**

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THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED.

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W.A.NO.735 OF 2005

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ORAL JUDGMENT:

*(Per the Hon'ble Sri Justice J.Chelameswar)*

Aggrieved by the judgment in Writ Petition No.4087 of 2003 dated 1st July 2004, the unsuccessful petitioner preferred this appeal.

The appellant was working as Assistant Administrative Officer at Nampally branch of the Life Insurance Corporation of India (for short 'the Corporation'). A complaint was made by the Senior Branch Manager of the Corporation that an amount of Rs.1,23,300/- was missing from the cash box, of the concerned branch and admittedly, the appellant had one of the two keys to the said cash box. On receipt of the said complaint, the appellant was arrested consequently he was kept under suspension, a regular departmental enquiry was conducted and he was dismissed from service.

It appears that in the first instance the appellant who was charge-sheeted for an offence punishable under Section 406 of the Indian Penal Code, was acquitted in C.C.No.114 of 1995. Challenging the order of dismissal, the appellant herein preferred the writ petition, which was dismissed by the order under appeal. The learned Judge while dismissing the writ petition recorded the two submissions made on behalf of the appellant; namely that copy of the enquiry report had not been furnished to the appellant; secondly, that the conclusion of the enquiry officer, which was accepted by the disciplinary authority that the appellant was guilty of the misconduct alleged against him is perverse, and held that they were baseless and rejected the same.

In the appeal, the only submission made by the learned counsel for the appellant is that non-furnishing of the enquiry report is fatal to the disciplinary proceedings and the learned Judge erred in coming to the conclusion that non-supply of the enquiry report did not vitiate the order of dismissal.

The learned Judge recorded that a copy of the enquiry report was, in fact, sought to be served on the appellant, but the postal authorities returned the same with an endorsement that the *"party not found"*. The learned Judge also recorded that the appellate authority before whom the appellant herein preferred an appeal aggrieved by the order of dismissal, communicated the enquiry report to him, thereupon the appellant herein raised certain additional grounds, which were duly considered by the appellate authority. The learned Judge held;

> " ..... In the ultimate analysis, therefore, the non-communication of the enquiry report prior to the passing of the order by the disciplinary authority was cured by an opportunity provided to the petitioner at the appellate stage. Earlier non-communication of the enquiry report is not a conscious withholding of the enquiry report by the disciplinary authority, ....."

The learned Judge on an examination of the record and the submissions came to the conclusion that the petitioner, has, in any case, not eventually suffered any serious prejudice on account of the opportunity having been provided at the appellate stage and dismissed the writ petition.

We are in total agreement with the reasons given and the conclusion reached by the learned Judge.

The writ appeal being merit less, is liable and accordingly, dismissed at the stage of admission. No costs.

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J.Chelameswar, J

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Ghulam Mohammed, J

mrk

1st April 2005.

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To

1 The Zonal Manager (Disciplinary Authority) LIC of India,
Central Office South Central Zone Office,
Saifabad, Hyderabad.
2 The Managing Director LIC of India, Central Office
P.B.No.199953, Jeevan Bima Marg, Mumbai.

3. 2 C.D. copies.